

**NEW CHAPTER
Chapter 21A.XX
MITIGATION AND MONITORING**

Sections:

21A.XX.XXX	Mitigation((-maintenance,)) and monitoring (((and contingency))) [Amend and recodify 21A.24.130]
21A.XX.XXX	Mitigation sequence [SALT section 115 - New]
21A.XX.XXX	Mitigation plan requirement [SALT section 117 - New]
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21A.XX.XXX	Specific mitigation requirements -- mineral extraction and waste materials processing operation [SALT section 118 - New]
21A.XX.XXX	Specific mitigation requirements -- coal mine hazard area [SAO section 124 - New]
21A.XX.XXX	Specific mitigation requirements -- erosion hazard area [SAO section 125 - New]
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21A.XX.XXX	((Wetlands:)) <u>Specific mitigation requirements -- wetland</u> [SAO section 127 amending 21A.24.340]
21A.XX.XXX	((Wetlands:)) <u>Specific mitigation requirements -- wetland</u> mitigation banking [SAO section 128 amending 21A.24.345]
21A.XX.XXX	((Streams:)) <u>Specific mitigation requirements -- aquatic area</u> [SAO section 129 amending 21A.24.380]
21A.XX.XXX	Specific mitigation requirements -- wildlife habitat network [SALT section 119 - New]
21A.XX.XXX	Specific mitigation requirements - fish and wildlife habitat conservation area [New]
21A.XX.XXX	((Sensitive)) <u>Critical areas mitigation fee - creation of fund</u> [Amend and recodify 21A.24.390]
21A.XX.XXX	((Sensitive)) <u>Critical areas mitigation fee - source of funds</u> [Amend and recodify 21A.24.400]
21A.XX.XXX	((Sensitive)) <u>Critical areas mitigation fee: use of funds</u> [Amend and recodify 21A.24.410]
21A.XX.XXX	((Sensitive)) <u>Critical areas mitigation fee -- investment of funds</u> [Amend and recodify 21A.24.420]

NOTE: Sections amended are noted in brackets following the title. “SALT” means proposed Site Alteration Code pending at council (Proposed Ordinance 2000-0525). “SAO” means proposed amendments to the Sensitive Areas Ordinance (KCC 21A.24) pending at council (Proposed Ordinance 1999-0353)

1 SECTION 1.

2 A. Sections 3, 4, 5, 7, 8, 9, 10, 14 and 15 of this ordinance should constitute a new chapter
3 in K.C.C. Title 21A.

4 B. K.C.C. 21A.24.130, .340, .345, .380, .390, .400, .410 and .420, all as amended by this
5 ordinance, and K.C.C. 21A.24.140, should all be recodified as sections in K.C.C. chapter 21A.--
6 (created under subsection A of this section).

7 SECTION 2. Ordinance 10870, Section 460, and K.C.C. 21A.24.130 are each hereby
8 amended to read as follows:

9 **Mitigation(~~(, maintenance,)~~) and monitoring (~~(and contingency)~~).**

10 A. Unless otherwise provided, an applicant shall mitigate adverse impacts:

- 11 1. To critical areas and their buffers; and
12 2. From hazard areas on the development proposal as a result of the proposed alterations
13 on or near the critical areas.

14 B. As determined by (~~(King County)~~) the department, mitigation(~~(, maintenance)~~) and
15 monitoring measures shall be in place to (~~(protect sensitive)~~) mitigate for alterations to critical
16 areas and buffers (~~(from alterations occurring on the development proposal site)~~).

17 (~~(B. Where monitoring reveals a significant deviation from predicted impacts or a failure of~~
18 ~~mitigation or maintenance measures, the applicant shall be responsible for appropriate corrective~~
19 ~~action which, when approved, shall be subject to further monitoring.)~~)

20 C. All mitigation shall be based on the best available science and shall utilize, as
21 applicable, the best available currently accepted engineering, geological and biological practices.

D. Any failure to satisfy critical area mitigation requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within thirty days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the department may demand payment of any financial guarantees or require other action authorized by K.C.C. Title 27A or other applicable law.

(Ord. 10870 § 460, 1993).

NEW SECTION. SECTION 3. There is hereby added to K.C.C. 21A.-- (created under Section 1 of this ordinance) a new section to read as follows: [SALT section 115][amended]

Mitigation sequence.

A. Mitigation applicable to critical areas, and their buffers, shall be approved according to the following sequence:

1. Avoiding the impact or hazard by not taking a certain action;
2. Minimizing the impact or hazard by limiting the degree or magnitude of the action with appropriate technology or by taking affirmative steps, such as project redesign, relocation or timing, to avoid or reduce the impact;
3. Rectifying the impact to critical areas by repairing, rehabilitating or restoring the affected critical area or its buffer;
4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
5. Reducing or eliminating the impact or hazard over time by preservation or maintenance operations during the life of the development proposal or alteration;
6. Compensating for the impact by enhancing critical areas and their buffers or creating substitute critical areas and their buffers; and

7. Monitoring the impact, hazard or success of other required mitigation and taking remedial action.

NEW SECTION. SECTION 4. There is added to K.C.C. chapter 21A.-- (created under Section 1 of this ordinance) a new section to read as follows: [SALT Section 117][amended]

Mitigation plan requirement.

A. The applicant shall submit a mitigation plan to the department for approval whenever mitigation is required. This requirement may be waived for any critical area except an aquatic area, wetland or fish and wildlife habitat conservation area.

B. The department may require the mitigation plan to include a monitoring plan that demonstrates compliance with this title and a contingency plan in the event of a failure of mitigation or of unforeseen impacts.

C. Mitigation shall not be implemented until after the department approves the mitigation plan. All mitigation shall comply with the mitigation plan.

NEW SECTION. SECTION 5. There is hereby added to K.C.C. 21A.-- (created under Section 1 of this ordinance) a new section to read as follows: [SALT section 116][amended]

Monitoring requirement.

A. Monitoring to demonstrate compliance with this title is required in accordance with the mitigation plan. The applicant shall notify the department when mitigation is installed and monitoring is commenced. The length of monitoring shall be determined as follows:

1. Monitoring for compliance may be required throughout the period of the expected impact from the permitted activity;

2. Monitoring to determine the success of a mitigation measure may be required for a period of up to five years after installation of the mitigation. Monitoring may be waived by the department when it is demonstrated that it is not necessary for the success of the mitigation except that mitigation for alterations to aquatic areas, wetlands and fish and wildlife habitat conservation areas shall be monitored for five years; and

3. Monitoring of specific hazards remaining after mitigation measures are implemented or installed may be extended as long as the hazard remains.

B. Monitoring reports shall be provided to the department according to a schedule in the mitigation plan.

C. When monitoring reveals a significant deviation from predicted impacts or a failure of mitigation, the applicant shall implement an approved contingency plan. The contingency plan shall constitute new mitigation and shall be subject to all mitigation and financial guarantee requirements including but not limited to, monitoring for a period of up to five years.

D. Reasonable access to the mitigation site shall be provided to King County for the purpose of inspections during any monitoring period after completion.

SECTION 6. Ordinance 10870, Section 461, as amended, and K.C.C. 21A.24.140 are each hereby amended to read as follows:

Financial guarantees. Financial guarantees shall be required consistent with the provisions of Title 27A. (Ord. 12020 § 54, 1995; Ord. 10870 § 461, 1993).

NEW SECTION. SECTION 7. There is hereby added to K.C.C. chapter 21A.-- (created under Section 1 of this ordinance) a new section to read as follows: [SALT Section 118][amended]

Specific mitigation requirements -- Mineral extraction and waste materials

processing operation. In addition to the requirements contained in sections 2 through 6 of this ordinance, the following applies to mitigation of adverse impact associated with a mineral extraction and waste materials processing operation:

A. Unless otherwise provided, the applicant shall mitigate adverse impacts including, but not limited to:

1. Fugitive dust;
2. Noise and blasting;
3. Landslides;
4. Accelerated deterioration of roadways;
5. Effects on local water supply wells and aquifer quality and quantity; and
6. Effects on surface water and water body quality and quantity.

B. The mitigation plan shall specify the required form and contents of monitoring reports. Records shall be kept on site and available for department and public inspection including, but not limited to, copies of yearly reports and daily logs on material production, water use and monitoring.

C. Monitoring may be required for the life of the extractive or production operations and shall, at a minimum, include compliance with air and noise standards and groundwater protection.

NEW SECTION. SECTION 8. There is hereby added to K.C.C. chapter 21A.-- (created under Section 1 of this ordinance) a new section to read as follows: [SAO Section 124][amended]

Specific mitigation requirements -- coal mine hazard area. In addition to the requirements contained in Sections 2 through 6 of this ordinance, the following applies to mitigation of adverse impacts associated with a coal mine hazard area:

A. Mitigation shall be designed, using appropriate criteria to evaluate the proposed use, to:

1. Minimize the risk of structural damage in a moderate coal mine hazard area; and

2. Eliminate or minimize significant risk of personal injury in a severe coal mine hazard

area.

B. Mitigation may include, but is not limited to, incorporation of building setbacks and design and performance tolerances for structures and infrastructure improvements incorporated into site, building or landscape plans; and

C. Any mitigation plan to address potential trough subsidence must be prepared by a professional engineer.

NEW SECTION. SECTION 9. There is hereby added to K.C.C. chapter 21A.-- (created under Section 1 of this ordinance) a new section to read as follows: [SAO Section 125][amended]

Specific mitigation requirements -- erosion hazard area. In addition to the requirements contained in sections 2 through 6 of this ordinance, the following applies to mitigation of adverse impacts associated with an erosion hazard area:

A. The mitigation plan shall include an erosion and sediment control plan prepared in compliance with the King County Surface Water Design Manual;

B. Damage to or removal of vegetation on lots in a subdivision, short subdivision or binding site plan during construction of related infrastructure shall be mitigated by stabilizing the lots in compliance with King County Erosion and Sediment Control Standards; and

C. If the project does not meet appropriate water quality standards established by law or administrative rules, the county may suspend further development work on the site until such standards are met.

134 NEW SECTION. SECTION 10. There is hereby added to K.C.C. chapter 21A.-- (created
135 under Section 1 of this ordinance) a new section to read as follows: [SAO Section 126][amended]

136 **Specific mitigation requirements -- seismic hazard area.** In addition to the requirements
137 contained in sections 2 through 6 of this ordinance, the department may waive or reduce mitigation
138 if it determines in writing that:

139 A. The risk is limited to property damage of a degree considered to not be significant; and

140 B. The cost of mitigation greatly exceeds the benefit of the proposed mitigation.

141 SECTION 11. Ordinance 10870, Section 481, as amended, and K.C.C. 21A.24.340 are
142 each hereby amended to read as follows: [SAO section 127][amended]

143 ~~((Wetlands:))~~ **Specific mitigation requirements**~~((:))~~ **-- wetland.**

144 In addition to the requirements contained in Sections 2 through 6 of this ordinance, the
145 following applies to mitigation of adverse impacts associated with a wetland:

146 A. ~~((Restoration shall be required if a wetland or its buffer is altered in violation of law or~~
147 ~~without any specific permission or approval by King County. The following minimum~~
148 ~~requirements shall be met for the restoration of a wetland:~~

149 ~~1. The original wetland configuration shall be replicated including its depth, width, length~~
150 ~~and gradient at the original location;~~

151 ~~2. The original soil type and configuration shall be replicated;~~

152 ~~3. The wetland edge and buffer configuration shall be restored to its original condition;~~

153 ~~4. The wetland, edge and buffer shall be replanted with vegetation native to King County~~
154 ~~that replicates the original vegetation in species, sizes and densities; and~~

155 ~~5. The original wetland functions shall be restored including, but not limited to,~~
156 ~~hydrologic and biologic functions.~~

~~B. The requirements in subsection A. of this section may be modified if the applicant demonstrates that greater wetland functions can otherwise be obtained.~~

~~C. Replacement shall be required if a buffer is altered under an approved development proposal or a wetland is used for a regional flow control facility or other approved use. The requirements for the restoration of wetlands shall be met by replacement wetlands.~~

~~D. Enhancement may be allowed if a wetland or buffer will be altered under to a development proposal, but the wetland's biologic and/or hydrologic functions will be improved. Minimum requirements for enhancement shall be established in administrative rules.~~

~~E. All alterations of wetlands shall be replaced or enhanced on the site or within the same drainage basin using the following formulas: class 1 and 2 wetlands on a two to one basis and class 3 wetlands on a one to one basis with equivalent or greater biologic functions including, but not limited to, habitat functions and with equivalent hydrologic functions including, but not limited to, storage capacity.~~

~~F. Replacement or enhancement off the site may be allowed if the applicant demonstrates to the satisfaction of King County that the off-site location is in the same drainage sub-basin as the original wetland and that greater biologic and hydrologic functions will be achieved. The formulas in subsection E of this section shall apply to replacement and enhancement off the site.~~

~~G. Surface water management or flood control alterations including, but not limited to, wetponds shall not constitute replacement or enhancement unless other functions are simultaneously improved.~~

~~H. Mitigation sites should be located to alleviate wildlife habitat fragmentation and avoid impacts to and prevent loss of farmable land within agricultural production districts.))~~

Mitigation of an alteration to a wetland or a wetland buffer shall achieve equivalent or greater biologic functions including, but not limited to, habitat complexity and connectivity, and equivalent or greater hydrologic functions including, but not limited to, seasonal dynamics and storage capacity and water quality. Mitigation of each function affected by the alteration shall achieve functional equivalency or improvement on a per function basis;

B. Mitigation of the adverse impact of alterations to wetlands or their buffers shall include:

1. For permanent alterations, creation of a new wetland and buffer, restoration of the altered wetland or buffer or restoration or enhancement of the altered wetland or another wetland or buffer, as determined by the department, using the following formulae:

a. for mitigation on-site and in the same drainage subbasin or in the tributary drainage area:

(1) rectification of the adverse impact to any category of wetland by repairing, rehabilitating or restoring the affected wetland or wetland buffer shall be on a 1:1 areal basis;

(2) enhancement or restoration in mitigation of an alteration associated with a category I or II wetland or a category III wetland that has a forested wetland vegetation class shall be on a 2:1 areal basis;

(3) enhancement or restoration in mitigation of an alteration associated with a category III wetland that does not have a forested wetland vegetation class or a category IV wetland shall be on a 1.5:1 areal basis;

(4) creation in mitigation of an alteration associated with a category I or II wetland or a category III that has a forested wetland vegetation class shall be on a 3:1 areal basis;

(5) creation in mitigation of an alteration associated with a category III wetland that does not have a forested wetland vegetation class or a category IV shall be on a 2:1 areal basis;

b. for mitigation off-site, but in the same drainage subbasin:

(1) enhancement or restoration in mitigation of an alteration associated with a category I or II wetland or a category III wetland that has a forested wetland vegetation class shall be on a 3:1 areal basis;

(2) enhancement or restoration in mitigation of an alteration associated with a category III wetland that does not have a forested wetland vegetation class or a category IV wetland shall be on a 2:1 areal basis;

(3) creation in mitigation of an alteration associated with a category I or II wetland or a category III wetland that has a forested wetland vegetation class shall be on a 4:1 areal basis;

and

(4) creation in mitigation of an alteration associated with a Category III wetland that does not have a forested wetland vegetation class or a category IV wetland shall be on a 3:1 areal basis;

c. for mitigation out of the drainage subbasin, but in the same drainage basin:

(1) enhancement or restoration in mitigation of an alteration associated with a category I or II wetland or a category III that has a forested wetland vegetation class shall be on a 5:1 areal basis;

(2) enhancement or restoration in mitigation of an alteration associated with a category III wetland that does not have a forested wetland vegetation class or a category IV wetland shall be on a 4:1 areal basis;

223 (3) creation in mitigation of an alteration associated with a category I or II wetland or
224 a category III wetland that has a forested wetland vegetation class shall be on a 6:1 areal basis;
225 and

226 (4) creation in mitigation of an alteration associated with a category III wetland that
227 does not have a forested wetland vegetation class or a category IV wetland shall be on a 5:1 areal
228 basis;

229 2. For temporary alterations the department may require mitigation in addition to
230 rectification of the altered wetland or buffer.

231 C. For purposes of this section, the department may consider two or more contiguous
232 sites under common ownership as one site for the purpose of mitigation ratios when all
233 applicable sites are in the same drainage subbasin and the department determines that equivalent
234 or greater wetland functions will be achieved;

235 D. For mitigation off-site or otherwise out of the altered wetland or buffer:

236 1. Wetlands given priority in approved basin plans shall be used for mitigation to the
237 maximum extent practical;

238 2. Whenever possible, mitigation sites shall be located to achieve maximum wildlife
239 benefits including, but not limited to, close proximity to other wetlands and contiguous wildlife
240 habitat networks, and

241 3. Mitigation out of the drainage subbasin shall be approved only if the department
242 determines that:

243 a. It is not practical to mitigate in the same drainage subbasin; and

244 b. Out-of-basin mitigation will achieve biologic, habitat and hydrologic functions
245 equivalent to or better than if mitigation is located in the same drainage subbasin;

246 4. Private mitigation sites may be created and used for off-site mitigation if in
247 compliance with the requirements of this chapter and if approved by the department. The
248 department may require, as part of the mitigation plan, a copy of any conservation easement or
249 other agreement between the applicant and property owner or related documentation. The
250 department may enter into agreements or become a party to any easement or other agreement
251 necessary to ensure that the site continues to exist in its mitigated condition. The department
252 shall keep and maintain a list of all private mitigation sites;

253 E. Mitigation of an alteration to an isolated wetland or its buffer shall include, but not be
254 limited to:

255 1. Creation of a new wetland and buffer within the same subbasin or enhancement of
256 one or more other wetlands within the subbasin by relocating the altered isolated wetland's
257 functions; and

258 2. Enhancement of the wildlife habitat of any wetland created or enhanced under this
259 subsection;

260 F. Mitigation of an alteration to a buffer or building setback area of a wetland that occurs
261 along a lake shoreline in accordance with a reasonable use exception under K.C.C. 21A.24 shall
262 include, but not be limited to, on-site revegetation, maintenance and other restoration of the
263 buffer or setback area to the maximum extent possible;

264 G. The following standards apply to all wetland restoration mitigation projects:

265 1. Replication of the historical wetland configuration including its depth, width, length
266 and gradient at the historical location;

267 2. Replication of the historical soil type, conditions and physical features;

268 3. Restoration of the wetland edge and buffer configuration to its historical condition;

4. Revegetation in the wetland and buffer by replanting with native vegetation of similar species diversity and density as the historical vegetation; and

5. Restoration of the wetland's historical functions including, but not limited to, its hydrologic and biologic functions;

H. Restoration of a wetland shall be carried out under the supervision of a wetland scientist

I. Drainage or flood control alterations shall not constitute creation or enhancement;

J. The department may develop a program to allow the payment of a fee in lieu of providing on-site mitigation. The program shall address geographic proximity, comparable hydrologic and biological functions, potential habitat fragmentation and degradation of habitat that could result from development on adjacent properties. Sites purchased with the fees must be buildable parcels.

K. The requirements in this section may be modified at the department's discretion if the applicant demonstrates that greater wetland functions, on a per function basis, can be obtained in the affected drainage subbasin through alternative measures.

(Ord. 14045 § 48, 2001: Ord. 13190 § 23, 1998: Ord. 11621 § 79, 1994: Ord. 10870 § 481, 1993).

SECTION 12. Ordinance 11621, Section 72, as amended, and K.C.C. 21A.24.345 are each hereby amended to read as follows: [SAO section 128][amended]

((Wetlands:)) Specific mitigation requirements -- wetland mitigation banking.

((King County)) The department may ((consider and)) approve ((replacement or enhancement)) mitigation in advance of unavoidable adverse impacts to wetlands caused by the development activities through an approved wetland mitigation bank. ((Wetland mitigation banking is not

~~allowed in the agricultural production districts if the purpose is to compensate for filling wetlands for development outside of the agricultural production districts. Compensatory mitigation in advance of authorized impacts must be provided through an approved mitigation bank. Criteria governing the creation)) Standards regulating the development and use of a mitigation bank ((shall be)) are established in administrative rules. ((A pilot project or projects, complete with evaluation should be initiated that would test the viability of the mitigation bank concept before to its full implementation.)) (Ord. 14045 § 49, 2001: Ord. 11621 § 72, 1994).~~

SECTION 13. Ordinance 10870, Section 485, and K.C.C. 21A.24.380 are each hereby amended to read as follows: [SAO Section 129][amended]

~~((Streams: M))~~ **Specific mitigation requirements -- aquatic area.**

~~((A. Restoration shall be required when a stream or its buffer is altered in violation of law or without any specific permission or approval by King County. A mitigation plan for the restoration shall demonstrate that:~~

- ~~1. The stream has been degraded and will not be further degraded by the restoration activity;~~
 - ~~2. The restoration will reliably and demonstrably improve the water quality and fish and wildlife habitat of the stream;~~
 - ~~3. The restoration will have no lasting significant adverse impact on any stream functions; and~~
 - ~~4. The restoration will assist in stabilizing the stream channel.~~
- ~~B. The following minimum requirements shall be met for the restoration of a stream:~~
- ~~1. All work shall be carried out under the direct supervision of a qualified biologist;~~
 - ~~2. Basin analysis shall be performed to determine hydrologic conditions;~~

~~3. The natural channel dimensions shall be replicated including its depth, width, length and gradient at the original location, and the original horizontal alignment (meander lengths) shall be replaced;~~

~~4. The bottom shall be restored with identical or similar materials;~~

~~5. The bank and buffer configuration shall be restored to its original condition;~~

~~6. The channel, bank and buffer areas shall be replanted with vegetation native to King County which replicates the original vegetation in species, sizes and densities; and~~

~~7. The original biologic functions of the stream shall be recreated.~~

~~C. The requirements in subsection B. may be modified if the applicant demonstrates to the satisfaction of King County that a greater biologic function can otherwise be obtained;~~

~~D. Replacement or enhancement shall be required when a stream or buffer is altered pursuant to an approved development proposal. There shall be no net loss of stream functions on a development proposal site and no impact on stream functions above or below the site due to approved alterations.~~

~~E. The requirements which apply to the restoration of streams in subsection B. shall also apply to the relocation of streams, unless the applicant demonstrates to the satisfaction of King County that a greater biologic function can be obtained by modifying these requirements.~~

~~F. Replacement or enhancement for approved stream alterations shall be accomplished in streams and on the site unless the applicant demonstrates to the satisfaction of King County that:~~

~~1. Enhancement or replacement on the site is not possible;~~

~~2. The off-site location is in the same drainage sub-basin as the original stream; and~~

~~3. Greater biologic and hydrologic functions will be achieved.~~

~~G. Surface water management or flood control alterations shall not be considered enhancement unless other functions are simultaneously improved.))~~

In addition the requirements contained in Sections 2 through 6 of this the following applies to mitigation of adverse impacts associated with an aquatic area:

A. Mitigation of an alteration to an aquatic area or an aquatic area buffer shall achieve equivalent or greater biologic functions including, but not limited to, habitat functions, and equivalent or greater hydrologic functions and shall mitigate adverse impacts upstream of, at or downstream of the development proposal site. Mitigation of each function affected by the alteration shall achieve functional equivalency or improvement on a per function basis;

B. Mitigation of the adverse impact of alterations to aquatic areas or their buffers shall be on-site where practical, or in the same drainage subbasin or shoreline reach as determined by the department and shall include:

1. For permanent alterations, rectification, restoration or enhancement of the altered aquatic area or buffer, as determined by the department, shall meet the following criteria:

a. For mitigation on-site:

(1.) rectification of the adverse impact to any water type by repairing, rehabilitating or restoring the affected aquatic area or buffer shall be on a 1:1 areal and functional basis;

(2.) enhancement or restoration which is not rectification in mitigation of an alteration associated with a type N or O water shall be on a 1.5:1 areal and functional basis; and

(3.) enhancement or restoration which is not rectification in mitigation of an alteration associated with a type S or F water shall be on a 2:1 areal and functional basis; and

b. For mitigation off-site:

(1) enhancement or restoration which is not rectification in mitigation of an alteration associated with a type N or O water shall be on a 2:1 areal and functional basis; and

(2) enhancement or restoration which is not rectification in mitigation of an alteration associated with a type S or F water shall be on a 3:1 areal and functional basis; and

2. For temporary alterations the department may require rectification of the altered aquatic area or buffer;

C. “On-site mitigation” means within the same aquatic area subbasin as the proposed alteration site and within one-half mile upstream or downstream and:

1. For a type S water, is not upstream of a barrier between the location of the alteration and the location where the mitigation is done;

2. For a type F water, is not beyond, either upstream or downstream, the location where the order changes or upstream of a barrier unless removal of the barrier is part of the proposed alteration;

3. For Type N and O waters, is not upstream or downstream of a barrier regardless of whether or not the barrier is removed as part of the proposed alteration.

D. “Off-site mitigation” means within the same aquatic area subbasin as the proposed alteration site and beyond one half mile upstream or downstream;

E. For off-site mitigation:

1. Aquatic areas given priority in approved basin plans shall be used for mitigation to the maximum extent practical; and

2. Whenever possible, mitigation sites shall be located to achieve maximum wildlife benefits including, but not limited to, contiguous wildlife habitat networkss; and

3. Off-site mitigation shall be approved only if the department determines that:

a. it is not practical to mitigate on-site; and

b. off-site mitigation will achieve biologic, habitat and hydrologic functions

equivalent to or better than on-site mitigation;

4. Private mitigation sites may be made and used for off-site mitigation if in compliance with the requirements of this chapter and if approved by the department. The department may require, as part of the mitigation plan, a copy of any conservation easement or other agreement between the applicant and property owner. The department may enter into agreements or become a party to any easement or other agreement necessary to insure that the site continues to exist in its mitigated condition. The department shall keep and maintain a list of all private mitigation sites;

F. The following standards apply to all aquatic area stream restoration mitigation projects:

1. Replication of the natural channel dimensions including its depth, width, length and gradient at the historical location;

2. Replacement of the historical horizontal alignment (sinuosity);

3. Restoration of the bottom with identical or similar materials;

4. Restoration of the bank and buffer configuration to its historical condition;

5. Restoration of the historical vegetation in species, sizes and densities in the channel, bank and buffer by replanting with native vegetation; and

6. Restoration of the stream's historical functions including, but not limited to, its hydrologic and biologic functions;

G. Restoration of a stream or its buffer shall be carried out under the supervision of a stream scientist.

H. The buffer of an aquatic area may be increased, as determined by the department, to mitigate risks to aquatic area functions or to protect the public health, safety, welfare and environment;

I. Drainage or flood control alterations shall not constitute enhancement unless other affected aquatic area functions are simultaneously improved;

J. The department may develop a program to allow the payment of a fee in lieu of providing on-site mitigation. The program shall address geographic proximity, comparable hydrologic and biological functions, potential habitat fragmentation and degradation of habitat that could result from development on adjacent properties. Sites purchased with the fees must be buildable parcels;

K. The requirements set forth in this section may be modified at the department's discretion if the applicant demonstrates that greater aquatic area functions, on a per function basis, can be obtained in the affected drainage subbasin as a result of alternative mitigation measures. (Ord. 10870 § 485, 1993).

NEW SECTION. SECTION 14 There is hereby added to K.C.C. chapter 21A.-- (created under Section 1 of this ordinance) a new section to read as follows: [SALT section 119]

Specific mitigation requirements -- Wildlife habitat network. In addition to the requirements contained in sections 2 through 6 of this ordinance, the following applies to mitigation of adverse impacts associated with a wildlife habitat network:

A. Mitigation of alterations to a wildlife habitat network shall achieve equivalent or greater biologic functions including, but not limited to, habitat functions and shall include adverse impacts to the wildlife habitat network on or off the development proposal site;

B. Mitigation of the adverse impacts of alterations to wildlife habitat networks shall be in the same network and shall include:

1. For permanent alterations, rectification, restoration or enhancement of the altered corridor, as determined by the department, using the following formula:

a. for mitigation on site:

(1) rectification of the adverse impact to the network by repairing, rehabilitating or restoring the affected network shall be on a 1:1 areal and functional basis; and

(2) enhancement or restoration which is not rectification in mitigation of an alteration shall be on a 1.5:1 areal and functional basis; and

b. for mitigation off-site:

(1) rectification of the adverse impact to the network by repairing, rehabilitating or restoring the affected network shall be on a 2:1 areal and functional basis; and

(2) enhancement or restoration which is not rectification in mitigation of an alteration shall be on a 3:1 areal and functional basis; and

2. For temporary alterations, the department may require rectification, restoration or enhancement of the altered network.

C. A wildlife habitat network width may be increased, as determined by the department, to mitigate risks to habitat functions or to public health, safety welfare and environment;

D. For mitigation off-site:

1. Off-site mitigation shall be approved only if the department determines that:

a. it is not practical to mitigate on-site; and

b. off-site mitigation will achieve biologic and habitat functions equivalent or better than on-site mitigation;

2. The department may require, as part of the mitigation plan, a copy of any conservation easement or other agreement between the applicant and property owner. The department may enter into agreements or become a party to any easement or other agreement necessary to insure that the site continues to exist in its mitigated condition; and

E. The following standards apply to all mitigation projects involving wildlife habitat network restoration.:

1. Restoration of the original soil type, conditions and physical features;
2. Revegetation by replanting with native vegetation of similar species diversity and density as the original vegetation; and
3. Restoration of the wildlife habitat network's original functions including, but not limited to, its biologic and habitat functions;

F. Restoration of a wildlife habitat network shall be carried out under the supervision of a qualified wildlife scientist;

G. The requirements in this section may be modified at the department's discretion if the applicant demonstrates that greater wildlife habitat functions can be obtained in the same network through alternative mitigation measures.

NEW SECTION. SECTION 15 There is hereby added to K.C.C. chapter 21A.-- (created under Section 1 of this ordinance) a new section to read as follows:

Specific mitigation requirements – Fish and wildlife habitat conservation area. In addition to the requirements contained in sections 2 through 6 of this ordinance, the following applies to mitigation of adverse impacts associated with a fish and wildlife habitat conservation area:

A. Mitigation shall be designed to:

1. Prevent disturbance of the species from the proposed development activity; and

2. Minimize the adverse impact of alterations to the fish and wildlife habitat

conservation area;

B. The mitigation plan shall include an analysis of each protected species impacted by the development activity or alteration;

C. On-site mitigation may include management practices and mitigation measurew including but not limited to buffer averaging and enhancement of the fish and wildlife habitat conservation area;

D. Off-site mitigation may include buffer averaging and enhancement of fish and wildlife habitat conservation areas contiguous to the on-site areas. Non-contiguous off-site mitigation may only be approved when necessary for reasonable use or director's modification.

SECTION 16. Ordinance 10870, Section 486, and K.C.C. 21A.24.390 are each hereby amended to read as follows:

((Sensitive)) Critical areas mitigation fee - Creation of fund. There is hereby created a **((Sensitive)) Critical** Areas Mitigation Fund. This fund shall be administered by the King County Office of Finance. (Ord. 10870 § 486, 1993).

SECTION 17. Ordinance 10870, Section 487, and K.C.C. 21A.24.400 are each hereby amended to read as follows:

((Sensitive)) Critical areas mitigation fee - Source of funds. All monies received from penalties resulting from the violation of rules and laws regulating development and activities within **((sensitive)) critical** areas shall be deposited into the fund. (Ord. 10870 § 487, 1993).

SECTION 18. Ordinance 10870, Section 488, and K.C.C. 21A.24.410 are each hereby amended to read as follows:

498 **((Sensitive)) Critical areas mitigation fee - Use of funds.** Monies from the fund shall
499 only be used for paying the cost of enforcing and implementing ((sensitive)) critical area laws and
500 rules. (Ord. 10870 § 488, 1993).

501 SECTION 19. Ordinance 10870, Section 489, and K.C.C. 21A.24.420 are each hereby
502 amended to read as follows:

503 **((Sensitive)) Critical areas mitigation fee - Investment of funds.** Monies in the fund not
504 needed for immediate expenditure shall be deposited in a separate investment fund pursuant to
505 RCW 36.29.020. The director shall be designated as the investment fund director. (Ord. 10870 §
506 489, 1993).